

REMARKS

Please review this amendment and contact the undersigned if it seems possible to advance prosecution.

Claims 1-5, 11, 20-22, 24, 25, 37-40 and 73-77 are pending. New claims 78-79 are added as described below.

The claims stand rejected over a new matter rejection made under 35 U.S.C. §112 for lack of written description. All that is required to satisfy the description requirement is that the originally filed disclosure would have conveyed to one having ordinary skill in the art that the appellant had possession of the concept of what is later claimed. In re Anderson, 471 F.2d 1237, 1244, 176 USPQ 331, 336 (CCPA 1973).

- Claim 1: The March 10, 2009 Office Action reproduced a portion of Applicant's Example 12 that plainly provides for a 1.5 mm diameter rod-shape. The rod-shape is plainly stated as being maneuvered through an operating channel of a scope to implant the rod. The claim's phrase "for . . . passage through a catheter or hollow needle having an inner diameter of no more than about 1.5 mm" speaks directly to the shape of the hydrogel. The language "a sheet rolled from one edge to another to form a roll" describes a related shape such that an artisan reading the Application will immediately appreciate that the Applicant possessed the idea of using the sheet-roll. Similarly, the other shapes, also supported in the specification, can pass through the same channel.
- New claim 78 is a restatement of claim 1 with the shapes being limited to the rod and the sheet roll.
- New claim 79 is limited to the rod and the sheet roll and is a restatement of claim 1 with the 1.5 mm language being used in terms of the outer diameter of the rod or roll. The diameter of the rod or roll is provided, as in Example 12. This claim is supported for the same reasons as present

claim 1, and the basis for the same has already been provided at length. This claim is offered as an alternative to claims 1 or 78 in an effort to resolve prosecution of this case.

Respectfully submitted,

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